

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

FREDDIE FOUNTAIN, #1640115	§	
VS.	§	CIVIL ACTION NO. 6:15cv999
UNITED STATES OF AMERICA	§	

ORDER OF DISMISSAL

Plaintiff Freddie Fountain, an inmate confined at the Coffield Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered civil lawsuit against the United States of America. He is suing the United States essentially because the Court has not appointed him an attorney to represent him in his various civil rights lawsuits. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Fountain has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Fountain, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Fountain are without merit. It is specifically noted that Fountain has a history of abuse of court. He has accumulated more than “three strikes” for purposes of § 1915(g). The facts as alleged in the present lawsuit do not give rise to an inference that he was under imminent danger of serious physical injury at the time he filed the lawsuit and his application to proceed *in forma pauperis*; thus, the lawsuit

should be dismissed with prejudice for purposes of *in forma pauperis* proceedings. Fountain's objections and arguments to the contrary lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #6) is **ADOPTED**. It is further

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further


ORDERED that Fountain's motion for leave to proceed *in forma pauperis* (docket entry #2) is **DENIED**. It is further

ORDERED that Fountain may resume the lawsuit if he pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. Fountain is warned, however, that the lawsuit may be dismissed as frivolous if he timely files the entire filing fee of \$400. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 6th day of January, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE